

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

MARLON O. GILARD,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 3:16-cv-537-JPG-DGW

MEMORANDUM AND ORDER

J. PHIL GILBERT, District Judge:

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 18) of Magistrate Judge Donald G. Wilkerson recommending that the Court, in respect to the United States of America’s Motion to Dismiss for Improper Venue or, in the Alternative, Motion for Change of Venue (Doc. 14), deny in part insofar as dismissal and grant in part insofar as change of venue. The Report also recommends that this Court transfer the matter to the United States District Court for the Eastern District of Kentucky and find as moot Defendant’s Motion for Summary Judgment for Plaintiff’s Failure to Exhaust Administrative Remedies (Doc. 15).

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review de novo the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

Neither party here has objected to the Report. The Court has reviewed the Report for clear error and has found none. For the foregoing reasons, the Court **ADOPTS** Magistrate Judge Wilkerson's recommendation in its entirety. The Court:

- **DENIES IN PART** the United States of America's Motion to Dismiss for Improper Venue or, in the Alternative, Motion for Change of Venue (Doc. 14) insofar as Defendant seeks dismissal of this action pursuant to Rule 12(b)(3);
- **GRANTS IN PART** the United States of America's Motion to Dismiss for Improper Venue or, in the Alternative, Motion for Change of Venue (Doc. 14) insofar as Defendant seeks change of venue;
- **TRANSFERS THE MATTER** to the United States District Court for the Eastern District of Kentucky; and
- **FINDS AS MOOT** Defendant's Motion for Summary Judgment for Plaintiff's Failure to Exhaust Administrative Remedies (Doc. 15).

IT IS SO ORDERED.

DATED: August 22, 2017

s/J. Phil Gilbert

**J. PHIL GILBERT
DISTRICT JUDGE**